

## § 1208.61

the policy of the Act, the Secretary shall terminate or suspend the operation of this subpart or the provision of this subpart under such terms as the Secretary determines are appropriate. Such termination or suspension shall not be considered an order within the meaning of such term in the Act.

### **§ 1208.61 Proceedings after termination.**

(a) Upon the termination of this subpart, the Council shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the assets of the Council. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property owned, in the possession of, or under the control of the Council, including any claims unpaid or property not delivered, or any other claim existing at the time of such termination.

(b) The trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Council under any contract or agreement entered into by it under this subpart;

(3) Make refunds from the escrow account to those persons who applied for refunds of assessments paid and who are eligible to receive such refunds. Such refunds shall be made within 30 days after the referendum results are issued.

(4) From time to time account for all receipts and disbursements, and deliver all property on hand, together with all books and records of the Council and of the trustees, to such persons as the Secretary may direct; and

(5) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Council or the trustees under this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered under this subpart shall be subject to the same obligations imposed upon the Council and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liq-

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uidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of continuing one or more of the promotion, research, consumer information, or industry information programs, plans, or projects authorized under this subpart.

### **§ 1208.62 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation or rule issued under this subpart, or the issuance of any amendment to such provisions, shall not:

(a) Affect or waive any right, duty, obligation, or liability that shall have arisen or may hereafter arise in connection with any provision of this subpart or any such regulation or rule;

(b) Release or extinguish any violation of this subpart or any such regulation or rule; or

(c) Affect or impair any rights or remedies of the United States, the Secretary, or any person with respect to any such violation.

## REPORTS, BOOKS, AND RECORDS

### **§ 1208.70 Books, records, reports, cost control, and audits of the Council.**

(a) The Council shall maintain the books and records that the Secretary may require to account for the receipt and disbursement of all funds entrusted to the Council in accordance with the provisions of this subpart, and shall prepare and submit to the Secretary, from time to time as prescribed by the Secretary, all reports that the Secretary may require.

(b) The Council shall, as soon as practicable after December 29, 1994 and after consultation with the Secretary and other appropriate persons, implement a system of cost controls based on normally accepted business practices that will ensure that the annual budgets of the Council include only amounts for administrative expenses that cover the minimum administrative activities and personnel needed to properly administer and enforce this subpart, and conduct, supervise, and evaluate plans and projects under this subpart.

(c) The Council shall cause the books and records of the Council to be audited by an independent certified public accountant at the end of each fiscal year. All audits must be performed in accordance with either standards issued by the American Institute of Certified Public Accountants or by the General Accounting Office. A report of each audit shall be submitted to the Secretary.

**§ 1208.71 Reports, books, and records of persons subject to this subpart.**

(a) Each qualified handler shall prepare and file reports containing such information as may be required by the Council with the approval of the Secretary. Such information shall include:

(1) Data showing the volume of sales and non-sale transfers of cut flowers and greens made during the reporting period;

(2) The amount of the assessment on such sales or non-sale transfers; and

(3) Any other data that may be required by the Council with the approval of the Secretary.

(b) Each person subject to this subpart shall maintain and make available for inspection by agents of the Council and the Secretary such books and records as are determined by the Council with the approval of the Secretary, as necessary to carry out the provisions of this subpart and the regulations issued hereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the fiscal period of their applicability.

**§ 1208.72 Confidential treatment.**

(a) Information obtained from books, records, or reports required to be maintained or filed under the Act and this subpart shall be kept confidential by all persons, including agents and former agents of the Council, all officers and employees and all former officers and employees of the Department, and by all officers and employees and all former officers and employees of contracting agencies having access to such information, and shall not be available to Council members. Only those persons having a specific need for such information to effectively administer the provisions of this subpart

shall have access to such information. In addition, only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the discretion, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this paragraph shall be deemed to prohibit:

(1) The issuance of general statements, based upon the reports, of the number of persons subject to this subpart or statistical data collected from such reports, which statements do not identify the information furnished by any such persons, and

(2) The publication, by direction of the Secretary, of the name of any individual, group of individuals, partnership, corporation, association, cooperative, or other entity that has been adjudged to have violated this subpart, together with a statement of the particular provisions of the subpart so violated.

(b) No information on how a person voted in a referendum conducted under the Act shall be made public.

MISCELLANEOUS

**§ 1208.80 Right of the Secretary.**

All fiscal matters, programs or projects, by-laws, rules or regulations, reports, or other substantive actions proposed and prepared by the Council shall be submitted to the Secretary for approval.

**§ 1208.81 Personal liability.**

No member or employee of the Council shall be held personally responsible, either individually or jointly, in any way whatsoever, to any person for errors in judgement, mistakes, or other acts of either commission or omission of such member or employee under this subpart, except for acts of dishonesty or willful misconduct.

**§ 1208.82 Patents, copyrights, inventions, publications, and product formulations.**

Any patents, copyrights, inventions, publications, or product formulations